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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/580,884 05/30/00 ZHANG

G 2373 USA

EXAMINER

IM22/0201

UNITED STATES SURGICAL CORPORATION  
150 GLOVER AVENUE  
NORWALK CT 06856

SANDERS, K

ART UNIT

PAPER NUMBER

1714

DATE MAILED:

02/01/01

*5*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/580,884**

Applicant(s)  
**Zhang**

Examiner  
**Kriellion A. Sanders**

Group Art Unit  
**1714**



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-18 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 9-11 and 13-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Regula et al '172.

Regula et al discloses cyanoacrylate adhesives formulated from cyanoacrylate monomers including butyl cyanoacrylate and a bioabsorbable polymer based on  $\epsilon$ -caprolactone. See cols. 3 and 4. No patentable difference is readily ascertained.

2. Claims 1 and 9-13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hyon et al '778.

Hyon et al discloses cyanoacrylate surgical adhesives which are useful in making sutures comprising bioabsorbable polymers of  $\epsilon$ -caprolactone and cyanoacrylate. See cols. 1-3. No patentable difference may be ascertained between the present claims and the patented invention.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Regula et al and Hyon et al as applied to claims 1 and 9-17 above, and further in view of Bennett et al '218.

5. Bennett et al discloses bioabsorbable copolymers based on caprolactone and additional comonomers including glycolide and trimethylene carbonate. See col. 2, lines 9-11. The polymers are useful for formulating sutures. Utilization of the caprolactone polymers of Bennett et al in lieu of any of the caprolactone polymers of either of Regula et al or Hyon et al would have been obvious to one of ordinary skill in this art at the time of applicant's invention absent a clear showing of unexpected results attributable to such a substitution. Selection of preferred ratios of components would have been an obvious choice in design to the ordinary practitioner of this art as well.

6.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Sanders whose telephone number is (703) 308-2435.

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January 29, 2001

A handwritten signature in cursive script, appearing to read "Kriellion Sanders".

Kriellion Sanders

Primary Examiner

AU 1714